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—  
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WILLIAM E. COOK, JR.  
DIRECT LINE: (202) 872-6996

RECEIVED

MAR 16 1995

March 16, 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

BY HAND

Ms. Susan Cosentino  
Consumer Protection Division  
Cable Services Bureau  
Federal Communications Commission  
2033 M Street, N.W., Room 804-G

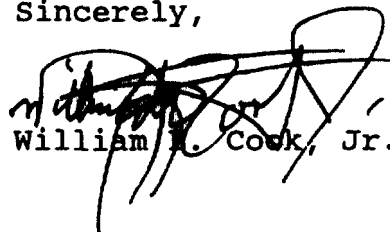
Re: Ex Parte Presentation in  
MM Docket No. 92-263

Dear Ms. Cosentino:

Susan Littlefield, President of the National Association of Telecommunications Officers and Advisors ("NATOA"), asked that I forward you the enclosed surveys you requested from NATOA members regarding the implementation by local governments of customer service standards. I also filed today two copies of this letter and the enclosures with the Secretary of the Commission. A copy of the transmittal letter (w/out enclosures) to the Secretary also is enclosed.

Please let me know if I can be of further assistance or if you have any questions regarding the enclosures.

Sincerely,

  
William E. Cook, Jr.

Enclosures

cc: Susan Littlefield

# NATOA SURVEY ON CUSTOMER SERVICE STANDARDS

If possible, please enclose a copy of your standards clearly labelled with:

Jurisdiction Name / Operator Name / Date

Jurisdiction/State San Luis Obispo County CA

IN YOUR OWN OPINION.....

Operator(s) Falcon, Sonic Communications  
San Simeon Community Cable (small operator - waves - included what we thought was reasonable in franchise renewal)

15. Are these new standards different?

How?

YES NO

FCC Community Unit Identifier # \_\_\_\_\_

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Name/Title Ellen Sturtz

See chart

MAR 16 1995

Franchise Administrator

Phone 805 781 5239

FEDERAL COMMUNICATIONS COMMISSION

16. Are these standards more stringent than the FCC's?

How?

YES NO

Fax 805 781 1229

e-mail - esturtz@slonet.org

1. Have you adopted the FCC customer service standards and notified operator of same?

YES NO

2. Date you adopted the rules? 9/13/94

3. Date they become effective in your franchise? 12/15/94

4. Did you have customer service standards in place prior to the FCC's rules? YES NO

5. Date implemented? County Ordinance 1992  
did not include all that is in present rules

6. Implemented during franchise? YES NO  
For Falcon 1993, San Simeon 1994.  
Sanis are waived - 1987

7. Did they require a franchise modification? YES NO

8. Implemented during transition? YES NO

9. Implemented at renewal? YES NO

10. Were these standards different or more stringent than the FCC's? YES NO  
The ordinance, and the rules were more stringent than the FCC's.

11. Specific problems you have addressed?

12. Did you pass different or more stringent rules after the FCC rules came out? YES NO  
I believe the ordinance changes reflected your changes

13. What date? 11/92

14. Franchise modification? YES NO

17. Why were they necessary in your community?

Standards were necessary -

- ① hours limited
- ② phone response time poor
- ③ bill payment locations not convenient
- ④ no written notice of changes

18. What sort of evaluation methods are you using to determine compliance? (describe)

- ① informal phone response surveys
- ② informing public of the standards to help monitor
- ③ Have already sent notices of violation to Falcon & Sonic & monitor compliance.

19. Has the operator cooperated in providing necessary or requested data? YES NO  
So far I haven't asked for "data"

20. Is your operator's compliance with FCC or your rules generally? GOOD OK BAD

21. Has your operator attempted to pass through costs of complying with the FCC rules? YES NO  
Falcon yes, Sonic/San Simeon - No

22. Have you seen a decrease in subscriber complaints about service after you adopted FCC customer service rules? YES NO Maybe  
Perhaps, less mention of phone problems with getting through

23. Did you see a decrease in complaints after you implemented your own rules? YES NO  
Can't answer

24. Are there consumer protection laws in your state that you think apply to cable operators or could be applied? YES NO

**Attachment A**

**CUSTOMER SERVICE STANDARDS COMPARISON TABLE**

<b>FCC Customer Standards Provisions (47CFR 76.309)</b>	<b>County Code</b>	<b>Sonic</b>	<b>Falcon</b>
<b>PHONES</b>	6.48...		
1. Maintain a local, toll-free or collect call access line available 24 hours a day, seven days a week.	120(a)4	Penalty Section 10(b)13	Penalty Section 27B13
2. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.	120(a)4		
3. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.	120(a)4		
4. Under normal operating conditions, telephone answer time by a customer rep, including wait time, shall not exceed thirty seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty seconds. These standards shall be met no less than ninety percent of the time under normal operating conditions, measured on a quarterly basis.			
5. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.			
Note: The cable operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards unless a historical record of complaints indicates a clear failure to comply.			
<b>CUSTOMER SERVICE CENTER</b>			
Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.	120(a)4 Weaker	Penalty Section 10(b)13-Weaker	Penalty Section 27B13-Weaker

INSTALLATIONS, OUTAGES AND SERVICE CALLS		County Code	Sonic	Falcon
Under normal operating conditions, each of the following four standards will be met no less than ninety five percent of the time measured on a quarterly basis:				Section 23H of this section requires 97.5% per calendar month
1.	Standard installations will be performed within seven days after an order is placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.	160(2) refers to 150 feet as a standard		
2.	Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruptions becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.	120(a)1 Stronger	Penalty Section 10(b)11	Section 23 B. 23C & F- stronger. Penalty Section 27B11
3.	The "appointment window" alternatives for installations, service calls, and other installation activities will either be a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)			Section 23A Weaker
4.	An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.			Section 23A Weaker
5.	If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.			

NOTIFICATION TO SUBSCRIBERS		County Code	Sonic	Falcon
1.	The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:	260(d)		Penalty Section 27B4&21
a.	Products and services offered	260(f)1		
b.	Prices and options for programming services and conditions of subscription to programming and other services	260(f)4		
c.	Installation and services policies	260(f)4		
d.	Instructions on how to use the cable service			
e.	Channel positions programming carried on the system			
f.	Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office	260(f)6-- billing options only		
2.	Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty days in advance of any significant changes in the other information required.	260(d) 260(e)-- allows operator to notice on information channel instead of in writing-- FCC stronger		
BILLING				
1.	Bills will be clear, concise and understandable. Bills must be fully itemized, with itemization including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.			

2.	In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty days.			
<b>REFUNDS</b>				
Refund checks will be issued promptly, but no later than either-				
1.	The customer's next billing cycle following resolution of the request or thirty days, whichever is earlier, or			
2.	The return of the equipment supplied by the operator if service is terminated.			
<b>CREDITS</b>				
Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.				

#### FCC DEFINITIONS:

1. *Normal Business Hours* - The term means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night a week and/or some weekend hours.
2. *Normal Operating Conditions* - The term means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
3. *Service Interruption* - The term means the loss of picture or sound on one or more cable channels.

## Attachment B

### Section 21. Customer Service Standards and Response Times.

A portion of this section is taken from the Federal Communication Commission's Customer Service Standards (47 CFR 76.309). In some cases the language has been modified to accommodate San Simeon's small-system needs.

- A. Except in times of a natural or other type of emergency, or an appointment scheduled with the mutual consent of a subscriber, San Simeon shall respond to service requests and complaints within the time frames detailed in this Section.
- B. Moreover, San Simeon, except in emergency situations, shall have the "appointment window" for installations, service calls, and other installation activities be either a specific time or, at maximum, a four-hour time block during normal business hours. San Simeon may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.
- C. San Simeon may not cancel an appointment with a customer after the close of business on the day prior to the scheduled appointment. If a San Simeon representative will not be able to keep a customer appointment as scheduled, the customer shall be notified. Missed appointments shall be rescheduled, as necessary, at a time which is convenient for the customer.
- D. Standard installations will be performed by San Simeon within seven (7) business days after an order has been placed by a subscriber. "Standard" installations are those that are located up to 150 feet from the existing distribution system.
- E. In the case of a service interruption, San Simeon shall respond to, and make the repairs necessary (to the extent such repairs are possible) to resume the signal or service to the subscriber within twenty-four (24) hours or one (1) service day from the time that San Simeon first receives notification of the signal or service interruption.
- F. In the case of a "blank" or "no-picture" situation, San Simeon shall respond to, and make the necessary repairs (to the extent such repairs are possible) in order to return normal cable service within twelve (12) hours or one-half (1/2) service day from the time that San Simeon first receives notification of the "blank" or "no-picture" situation.
- G. In the case of a defective, improperly operating, or non-operating piece of equipment which does not result in the loss of a signal, San Simeon shall respond to, and make repairs as are necessary to correct the problem within thirty-six (36) hours or one and one-half (1½) service days from the time that San Simeon first

receives notification of the defective, improperly operating, or non-operating piece of equipment.

- H. In the case of repair to a piece of equipment in a subscriber's residence, or repair to the cable (coaxial, fiber, or functional equivalent), the repair should be completed, and the situation resolved, at the conclusion of the first service visit. If the repair is not completed and resolved within three (3) service visits, and if as a result of the insufficient repair, a situation remains wherein there is a visually or audibly detected degradation of a cable signal, then San Simeon must conduct a more thorough examination (including where necessary the removal and/or replacement of all drop cable and/or necessary equipment).
- I. In the case of a loss of all channels comprising a service level cluster, or tier, San Simeon shall respond to, and make the necessary repairs (to the extent such repairs are possible) in order to return the service cluster or service tier within six (6) hours or one-quarter ( $\frac{1}{4}$ ) service day from the time that San Simeon first receives notification of the loss of channels comprising a service cluster or service tier.
- J. In case of a dispute concerning the precise time that San Simeon received notification, or the precise circumstances surrounding when San Simeon first received notification, or whether notification was received at all, the County Board designates the County Engineer (or his or her designee) as the person responsible for resolving such a dispute.
- K. San Simeon will maintain a local, toll-free telephone access line which will be available to its subscribers 24 hours a day, seven days a week. This line can be answered by an answering machine, phone service or other suitable alternative with the understanding that the customer will be responded to by a trained staff member as follows:
  - a. Calls received between 8 a.m. and 1 p.m. will be returned no later than 2 p.m. the same day
  - b. Calls received between 1 p.m. and 8 a.m. will be returned no later than 9 a.m.
  - c. San Simeon will initiate an emergency number on the answering machine subscribers can call which will forward over to the local serviceperson. If there are abuses of this emergency system, San Simeon reserves the right to review other options for an emergency system.

If an answering machine is used during business hours the County can require that subscribers be polled by San Simeon, no more than annually, to ensure that subscribers are satisfied with this service.



- L. In addition to the written notice requirements in the County Code (Section 6.48.260) San Simeon will provide to new subscribers and at least annually to all subscribers, and at any time on request:
1. Installation and service maintenance policies
  2. Instructions on how to use the cable service
  3. Channel positions programming carried on the system
  4. Billing and complaint procedures, including the address and telephone number of the County's cable television office
- M. San Simeon bills to subscribers shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
- N. The County may require San Simeon to place a County message on the bill or include a County-produced billing insert, if such inclusion does not increase the postage for that particular mailing. The County may choose to pay the additional postage to include a County insert that will increase the postage in which case San Simeon shall include the County message or insert with the bill.
- O. In the case of a billing dispute with a subscriber, San Simeon must respond to a written complaint from a subscriber within 30 days.
- P. Refund checks will be issued promptly by San Simeon, but no later than either:
1. The customer's next billing cycle following the determination of the subscriber's right to a refund or thirty (30) days, whichever is earlier, or
  2. The return of any San Simeon equipment if service is terminated
- Q. Credits for service will be issued by San Simeon no later than the subscriber's next billing cycle following the determination that a credit is warranted.
- R. San Simeon shall be considered in compliance with the standards outlined in this Section having to do with response rates when San Simeon meets or exceeds such standards at least ninety-seven and one-half percent (97.5%) of the time during any calendar month.

# NATOA SURVEY ON CUSTOMER SERVICE STANDARDS

Jurisdiction/State CLACKAMAS COUNTY  
OREGON

Operator(s) \_\_\_\_\_

FCC Community Unit Identifier # \_\_\_\_\_

Name/Title \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

*See attached list of operators*

1. Have you adopted the FCC customer service standards and notified operator of same?

☒ YES ☐ NO

2. Date you adopted the rules?

*Case Ordinance*

3. Date they become effective in your franchise?

*no,*

4. Did you have customer service standards in place prior to the FCC's rules?

YES ☒ NO

5. Date implemented?

—

6. Implemented during franchise?

☒ YES ☐ NO

7. Did they require a franchise modification?

YES ☒ NO

8. Implemented during transfer?

YES ☒ NO

9. Implemented at renewal?

YES ☒ NO

10. Were these standards different or more stringent than the FCC's?

YES ☒ NO

11. Specific problems with standards addressed?

12. Did you pass different or more stringent rules after the FCC rules came out?

YES ☒ NO

13. What date?

14. Franchise modification?

YES ☒ NO

If possible, please enclose a copy of your standards clearly labelled with:

Jurisdiction Name / Operator Name / Date

IN YOUR OWN OPINION..... *Same as FCC*

15. Are these new standards different?

How? YES ☐ NO ☐

16. Are these standards more stringent?

How? YES ☐ NO ☐

17. Why were they necessary in your community?

*YES, YES, YES*

18. What sort of evaluation methods are you using to determine compliance? (describe)

*Customer Complaints (see attached policy & operator notification)*

19. Has the operator cooperated in providing necessary or requested data?

YES ☐ NO ☐

20. Is your operator's compliance with FCC or your rules generally?

GOOD OK ☐ BAD ☐

21. Has your operator attempted to pass through costs of complying with the FCC rules?

☒ YES ☐ NO

22. Have you seen a decrease in subscriber complaints about service after you adopted FCC customer service rules?

YES ☒ NO ☐

23. Did you see a decrease in complaints after you implemented your own rules?

YES ☐ NO ☐

24. Are there consumer protection laws in your state that you think apply to cable operators or could be applied?

YES ☒ NO ☐

*negative option marketing - we work with State Consumer Hot line 378-4320*

CABLE OPERATORS

CLACKAMAS COUNTY

CLEAR CREEK MUTUAL TELEPHONE CO.  
18238 S. Fischers Mill Rd.  
Oregon City, OR 97045  
NO COMMUNITY I.D. # OR 0473  
Mitchell Moore - Operations Mgr.  
Phone 631-2101  
FAX 631-2098

COLTON TELEPHONE CO.  
P. O. Box 68  
Colton, OR. 97017  
#OR 0437  
Dale Rongey - Gen. Mgr.  
Phone 1-503-824-3211  
FAX 1-503-824-9944

COLUMBIA CABLE OF OREGON  
14200 SW Brigadoon Ct.  
Beaverton, OR 97017  
#OR 0455  
Harlan Cook - Operations Mgr.  
Phone 644-3188  
FAX 646-8004

FALCON CABLEVISION  
1215 12th St.  
Hood River, OR 97031  
#OR 0323 Wemme OR 0162 Boring  
Lee Haglund - Gen. Mgr.  
Phone 1-800-874-0945  
FAX 1-503-386-6015

GOVERNMENT CAMP CABLE  
P. O. Box 10  
Government Camp, OR 97028  
#OR 0459  
Charlie Sperr - Owner  
Phone 1-503-272-3333  
FAX 1-503-272-0141

INTERSTATE CABLE  
P. O. Box 1829  
Junction City, KS 66441  
#OR 0451  
Patti Leahy - Supervisor  
Phone 1-800-888-4788  
FAX 1-913-238-7190

CASCADE CABLE TV  
303 SW Zobrist  
Estacada, OR 97023  
#OR 0285  
Bob Milliken - President  
Phone 630-2565  
FAX 1-630-8934

MONITOR COOP. TELEPHONE CO.  
15265 Woodburn-Monitor Rd.  
Woodburn, OR 97071  
#OR 0460  
Geri Fraijo / Dorrene Benthin, Mgr  
Phone 1-503-634-2100  
FAX 1-503-634-2900

NORTH WILLAMETTE TELECOM  
P. O. Box 850  
Canby, OR 97013  
#OR 0294  
Sandy Coleman - Operations Mgr.  
Phone 263-8080  
503-266-8262  
FAX 1-503-266-8297

PARAGON CABLE  
3075 NE Sandy Blvd.  
Portland, OR 97232  
#OR 0449  
Teri Scott - Public Affairs Dir.  
Phone 731-5855 or  
230-2000 Customer Service  
FAX 731-5508

TCI CABLEVISION OF OREGON  
3500 SW Bond  
Portland, OR 97201  
#OR 0157  
Brad Nosler - Director, Gov. &  
Community Affairs  
Phone 243-7426 or  
222-2253 Customer Service  
FAX 243-7413

TELSYSTEMS WEST, INC.  
P. O. Box 9  
Clackamas, OR 97015  
#OR 0461  
Tom Linstrom - President  
Phone 654-7727 or  
632-3113 Business Office  
FAX 632-7424

THEODORE R. KULONGOSKI  
ATTORNEY GENERAL



THOMAS A. BALMER  
DEPUTY ATTORNEY GENERAL

## DEPARTMENT OF JUSTICE

CIVIL ENFORCEMENT DIVISION  
1162 Court Street NE  
Justice Building  
Salem, Oregon 97310  
Telephone: (503) 378-4732  
FAX: (503) 373-7067  
TDD: (503) 378-5938

April 19, 1994

Falcon Cable  
Attn: Mr. Lee Haglund  
1215 12th Street  
Hood River, OR 97031


Re: Cable

Dear Mr. Haglund:

I received a complaint from Judge Terry Leggett regarding a recent Falcon Cable solicitation. The telemarketer advised Judge Leggett that the Cable Act required Falcon to charge subscribers \$45 for line repair within the home. Falcon was offering a monthly service contract for \$1.50 which would cover line repair charges. When Judge Leggett questioned the salesperson she was given the supervisor. The supervisor read the prepared script and there was no reference to the requirement that the Cable Act makes Falcon charge \$45. The supervisor advised Judge Leggett that the salesperson was in error and told the Judge this was an isolated incident. My concern is whether this was an isolated incident or whether the telemarketing firm had made similar representations.

Please contact me within the next week so we can schedule a meeting to discuss this matter.

Sincerely,

  
Timothy Wood  
Division Administrator

TMW:kg1/EW006196



# CLACKAMAS COUNTY

## OFFICE OF CABLE COMMUNICATIONS AND FRANCHISE MANAGEMENT

CAROLE J. BERGGREN  
MANAGER

Informal Compliance Notification / Formal Notification of Potential Noncompliance. Please refer to attached customer(s) complaint.

Cable Co. \_\_\_\_\_

Date \_\_\_\_\_

Clackamas County Franchising Authority has been advised by subscriber(s) of the following condition(s) which are not in compliance with the Ordinance adopted on August 11, 1994:

\_\_\_\_\_ OFFICE HOURS

\_\_\_\_\_ TELEPHONE AVAILABILITY

\_\_\_\_\_ CUSTOMER SERVICE CENTER, BILL PAYMENT LOCATION

\_\_\_\_\_ INSTALLATIONS - Standard install not performed within 7 business days post order

\_\_\_\_\_ OUTAGES/INTERRUPTIONS - began working more than 24 hours after interruption was made known

\_\_\_\_\_ SERVICE CALLS - Appointment window not offered / technician did not keep appointment

\_\_\_\_\_ NOTIFICATION TO SUBSCRIBERS - Cable operator did not provide written information on products, services, prices and options for programming services and conditions, installation and service maintenance policies, instructions how to use the cable service, channel positions

\_\_\_\_\_ Customer not notified of change in rates, programming services or channel positions 30 days in advance of change

\_\_\_\_\_ BILLING

Additional Comments \_\_\_\_\_

Please advise written notification to this office within 30 days from date above, of resolution to correct the reported alleged violations by subscribers, as indicated above.

POLICY APPLICABLE TO ENFORCEMENT OF CABLE CONSUMER PROTECTION STANDARDS, AS DEFINED IN THE **CLACKAMAS COUNTY CABLE ORDINANCE**, BOARD ORDER NO. 94-888.

1. Scope of Policy

This policy applies to enforcement of the Cable Consumer Protection Standards as defined in the Clackamas County Cable Ordinance, Board Order No. 94-888.

2. Publication and Distribution of Consumer Protection Policy

Cable Communications Department staff on an ongoing basis will take steps to ensure that cable operators, interested subscribers, the media, and members of the general public are informed of the Customer Protection Standards, as defined in the Cable Ordinance, and have received a copy upon request.

3. Staff Monitoring, Informal Compliance Steps, Notification

- a) **Monitoring.** Cable Communications Department staff on an ongoing basis will screen all cable related complaints, communications, reports, and other information relevant to the operations of Grantees ("cable operator") under the County jurisdiction to determine if an issue related to the cable operator's compliance with the Customer Service Standards, as defined in the Ordinance, has been presented.
- b) **Informal Compliance Steps.** If Cable Communications Department staff determines that evidence of potential noncompliance with the Customer Service Standards has been presented, then staff shall contact the relevant cable operator and take necessary steps to determine:
  - i) if the evidence or additional evidence indicates continuous, recurring, or significant noncompliance with the Customer Service Standards any provision of the Ordinance by the cable operator, and if so
  - ii) whether the cable operator is in good faith taking prompt and adequate corrective steps to remedy such noncompliance.
- c) **Formal Notification of Potential Noncompliance.** If County Cable Communications Department staff determines that potential noncompliance with the Customer Service Standards or any provision is continuous, recurring, or significant, and that prompt and adequate corrective action is not being taken by the cable operator, then the cable operator shall be notified that a failure to comply with the Customer Service Standards may have occurred. In that event, County shall seek written assurances or satisfactory evidence from the cable operator that the provision shall be complied with not later than 30 days from the date of notification, or time specified in franchise regarding notification of alleged violation, and the matter shall be placed on the next available Board of County Commissioners, (BCC) agenda for final determination and action.

4. County Procedure in the event of Potential Noncompliance

Any matter placed on the BCC agenda under Item 3 c), Formal Notification of Potential Noncompliance, hereof for final determination as to noncompliance

and appropriate action by the county shall be considered in accordance with due process.

5. Scope of County action in the event of Noncompliance

In the event of a County determination of noncompliance adverse to the cable operator under Item 3 hereof, the scope of allowable County action includes, but is not limited to:

- a) finding the noncompliant cable operator in violation of the Ordinance;
- b) requiring that the noncompliant operator take specific steps within a specified period of time to comply with the Ordinance provision or provisions at issue;
- c) recommending that the BCC authorize action upon the noncompliant operator, as per Section 9 Violation, Penalties and Remedies of the Ordinance.
- d) pursuing legal action, which may include forfeiture.

6. Staff Reports to Board of County Commissioners

- a) County Cable Communications staff shall report periodically, or as needed, to the BCC on the degree of compliance by cable operators with the Customer Service Standards provision.

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AN ORDINANCE GOVERNING THE REGULATION OF CABLE TELEVISION COMMUNICATIONS SYSTEMS WITHIN THE UNINCORPORATED AREAS OF CLACKAMAS COUNTY INCLUDING INCORPORATION OF THE STANDARDS OF THE CABLE COMMUNICATIONS POLICY ACT OF 1984, AND THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992.

THE BOARD OF COUNTY COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS.

For the purpose of this Ordinance, unless the context requires otherwise:

Access or Public Access means the use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the cable system to acquire, create, and cablecast programming not under the editorial control of the Grantee. Access also refers to the specific channels (and portions thereof), services facilities, equipment, technical components, maintenance, resources and/or other capital or operating support and all other means by which this right is exercised.

Cable Operator means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

Cable Service means (a) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service and, (b) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

Cable Communications System or Cable Television System means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (a) a facility that services only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, (other than for purposes of Section 621 (c)), except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or (d) any facilities of any electric utility used solely for operating its electric utility systems.

Franchise means an initial authorization, or renewal thereof (including renewal of an authorization which has been granted subject to Section 626 of the Cable Act), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.



Franchisee means the person, firm or organization to which a franchise is granted to operate a cable communications system pursuant to the authority of this Ordinance.

Franchise Fee means any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such, but the term "franchise fee" does not include, (as per sec. 622(g) of the Cable Act),

a. any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

b. in the case of any franchise in effect on the date of the enactment of this title, payments which are required by the franchise to be made by the cable operator during the term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;

c. in the case of any franchise granted after such date of enactment, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;

d. requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

e. any fee imposed under title 17, United State Code.

Leased Access Channel means any channel or portion of a channel available for programming by persons or entities other than Franchisee for a fee or charge.

Programming means the process of causing television programs or other patterns of signals to be transmitted on the cable communications system, and includes all programs or patterns of signals transmitted or capable of being transmitted, on the cable communications system.

Public Rights-of-Way means the surface of, and the space above and below, any public street, road, alley, highway, dedicated way, local access road or road easement used or intended to be used by the general public for motor vehicles, and any public utility easement within the County, to the extent the County has the right to allow the Franchisee to use them.

Video Programming means programming provided by, or generally considered comparable to programming provided by a television broadcast station.

## SECTION 2. AUTHORITY.

The County of Clackamas recognizes, declares and establishes its authority to regulate the construction, operation and maintenance of cable communications systems (hereinafter "system") for the area located within the unincorporated areas of Clackamas County, and to exercise all powers necessary for that purpose, including, but not limited to, the following:

1. To grant by resolution, nonexclusive franchises for the development and operation of a system or systems;
2. To impose different franchise requirements based on reasonable classifications.

3. To contract, jointly agree or otherwise provide with other local or regional governments, counties or special districts for the development, operation, and/or regulation of systems, or franchises;
4. In the event of unusual circumstances not presently anticipated to occur, the County may purchase, hire, construct, own, maintain, operate or lease a system and to acquire property necessary for any such purpose;
5. To regulate, subject to applicable law, all facets of a system, including but not limited to:
  - a. Consumer service, consumer protection and privacy standards.
  - b. Disputes among the County, franchisees, and subscribers.
  - c. The development, management and control of access channels.
  - d. Rates and review of finances for rate adjustments.
  - e. Construction timetables, standards, and service extension policies.
  - f. Modernization and upgrade of technical aspects.
  - g. Leased access channels.
  - h. Ensuring adherence to federal, state, and local regulations.
  - i. Franchise transfer and transfer of control of ownership.
  - j. Franchise renewal.
  - k. Franchise revocation.
  - l. Enforcement of buy-back, lease-back or option-to-purchase provisions.
  - m. Receivership and foreclosure procedures.
  - n. Compliance with County standards for public rights-of-way.
6. To reserve the power to exercise this grant of authority to the fullest extent allowed by law.

### SECTION 3. GRANT OF FRANCHISE, RENEWAL

1. In the event that a cable television operator seeks a franchise the procedures set forth in this Ordinance shall be followed subject to applicable law.
2. The Cable Manager of Clackamas County shall have authority to establish and provide:
  - a. Information and instructions relating to the preparation and filing of proposals to provide cable communications service;
  - b. Requirements for proposals to be referred to the Board of County Commissioners regarding the development, operation and regulation of a system, including but not limited to the following:
    - (1). The length, renewal and transfer or assignment of the franchise, including foreclosure and receivership provisions;
    - (2). A description of the franchise territory and the extension of service;
    - (3). Access requirements;
    - (4). The system design;
    - (5). Technical performance standards;
    - (6). Fees, records and reporting;
    - (7). Indemnification, insurance, and liability for damages; and
    - (8). Provision of an option for the County to acquire the system upon revocation or expiration of the franchise.

3. Subject to the provision of Section 11, it shall be unlawful to commence or engage in the construction, operation or maintenance of a cable communications system without a franchise issued under this Ordinance.

4. The Board of Commissioners by Board Order may:

- a. Approve and award the submitted franchise, as proposed, or modify or otherwise make amendments thereto as it deems necessary;
- b. Authorize the Cable Manager to seek bids for a system pursuant to a Request For Proposal.

5. The Board of Commissioners may award a franchise only after a public hearing on the proposed franchise, notice of which shall be published in a local newspaper of general circulation in the County at least ten days prior to the date of the hearing. The potential Franchisee shall be notified by mail of the public hearing; provided, however, that no defect in the notice or failure to notify shall invalidate the franchise awarded. The Board of Commissioners may award the franchise, modify the proposed franchise and award or take no action.

6. No franchise or award thereof shall be deemed final until adoption of a Board Order containing the terms and conditions thereof. The franchisee shall bear the costs of all publications and notices given in connection with the award of the franchise, and the costs incurred by the County in evaluating the proposed franchise.

7. A request for renewal of a franchise will be considered and processed in conformance with Federal Law.

#### SECTION 4. ADMINISTRATION OF CABLE COMMUNICATIONS.

The Board of County Commissioners, (BCC) or its designee, shall have the power to carry out any or all of the following functions:

1. Employ the service of a consultant, to assist in the analysis of any matter related to any franchise, Request For Proposal or proposed franchise under this Ordinance;
2. Act on applications for franchises;
3. Act on matters which might constitute grounds for revocation or termination of a franchise pursuant to its terms;
4. Attempt to resolve disagreements among Franchisees and public and private users of the system;
5. Consider requests for rate settings or adjustments, as permitted by Federal Law;
6. Coordinate and facilitate the use of access channels;
7. Act in intergovernmental matters relating to cable systems;
8. Review all Franchisee records required by the franchise;
9. Conduct evaluations of the system and the Franchisee's compliance with franchise requirements;
10. Adopt and amend regulations and procedures necessary to enforce franchises and to clarify interpretation thereof;
11. Appoint advisory committees to assist the County in exercising its authority concerning Public Access.

## SECTION 5. CUSTOMER SERVICE.

A cable operator shall be subject to the customer service standards, set forth in Federal law (Section 8 of the Cable Television Consumer Protection and Competition Act of 1992; 47 U.S.C. SS552; 47 C.F.R. Section 76.309) and as herein detailed:

1. Cable system office hours and telephone availability.
  - a. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
    - (i) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
    - (ii) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
  - b. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
  - c. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
  - d. Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
  - e. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
2. Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:
  - a. Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
  - b. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
  - c. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

- d. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
  - e. If a cable operator representative is running late for an appointment with customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
3. Communications between cable operators and cable subscribers:
- a. Notifications to subscribers:
    - 1. The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
      - (i) Products and services offered;
      - (ii) Prices and options for programming services and conditions of subscription to programming and other services;
      - (iii) Installation and service maintenance policies;
      - (iv) Instructions on how to use the cable service;
      - (v) Channel positions of programming carried on the system; and,
      - (vi) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
    - 2. Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and/or in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.
  - b. Billing
    - (i) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
    - (ii) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.
  - c. Refunds. Refund checks will be issued promptly, but no later than 30 days after:
    - (i) Resolution of the request, or
    - (ii) Return of all company equipment to the cable operator if service is terminated.
  - d. Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
4. Definitions.

- a. Normal Business Hours. The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
- b. Normal Operating Conditions. The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- c. Service Interruption - The term "service interruption" means the loss of picture or sound on one or more cable channels.

This section does not preclude the County from requiring more stringent customer service standards in franchise agreements.

#### SECTION 6. CONSUMER PROTECTION.

1. The County reserves the right to enforce customer service and consumer protection standards as such standards are established by state or federal law or regulation as applicable to cable system operations. In addition the County reserves the right to establish additional specific customer service and consumer protection standards and procedures to the extent permitted by applicable law.
2. Negative Option Marketing: Franchisee shall not engage in "negative option" marketing, prohibited by State or Federal Law or regulation.
3. Billing Credit for Service Interruptions: Franchisee shall make provision for subscriber credit for service interruptions or poor unwatchable cable reception, as per written company policy filed in the County Cable Office.

#### SECTION 7. COMPENSATION FOR FRANCHISE.

1. Franchise Fee. As compensation for the franchise to be granted, and in consideration of permission to use the streets and public ways of the County for the construction, operation, and maintenance of a cable communications system within the franchise area and to defray the costs of franchise regulation, the cable operator shall pay to the County five percent (5%) of the gross receipts generated through the operation of the cable system in the area franchised by Clackamas County, as permitted by Federal law.

In the event Federal law limits franchise fees below the five percent (5%) of gross receipts required herein, the Franchisee shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, the Franchisee shall pay the higher amount up to the maximum allowable by Federal law.

## 2. Payment of Franchise Fees.

A. Payments due under this provision shall be computed and paid quarterly, for the preceding quarter, as of March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than forty-five (45) days after the dates listed in the previous sentence. A quarterly report shall be made as hereinafter provided which shall contain the relevant facts necessary for the County to verify the amounts of franchise fee payments.

B. No acceptance of any payment shall be construed as accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim, the County may have further or additional sums payable under the provisions of the franchise. All amounts paid shall be subject to audit and recomputation by the County, not to exceed three (3) years from date of payment.

## SECTION 8. INTERGOVERNMENTAL AGREEMENTS.

The Board of County Commissioners may enter into intergovernmental agreements as authorized by Oregon law, with any other jurisdiction to provide for the cooperative regulation and control of any aspect of a cable communications system. Such agreements may provide for the delegation of any and all powers of the BCC to an entity provided for in the intergovernmental agreement, except for the powers to enter into or revoke a franchise agreement.

## SECTION 9. VIOLATION, PENALTIES AND REMEDIES.

1. Violation and Penalties. Any violation of the terms of this Ordinance is punishable by a fine not exceeding \$500. for a noncontinuing offense and a fine of not more than \$1,000. for a continuing offense.

2. Injunctive Relief. Upon authorization by the BCC, the County may commence an action in the Circuit Court or other appropriate court to enjoin the continued violation of any provision of this Ordinance.

3. Violation by a franchisee of any provision of a franchise granted pursuant to this Ordinance is:

- a) Subject to the enforcement provisions of the franchise,
- b) Punishable by fines set forth above, and
- c) Subject to injunctive relief as set forth above.

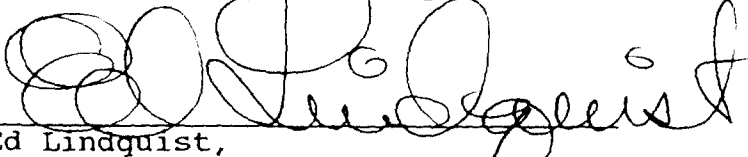
4. Cumulative Remedies. The rights, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the County under any other Ordinance or law.


## SECTION 10. SEVERABILITY.

Invalidity of a section shall not affect the validity of the remaining sections or parts of sections.

SECTION 11. NEW AND EXISTING AGREEMENTS, EFFECTIVE DATE.

1. All new applications, transfers and renewal requests for franchises shall be governed by this Ordinance effective immediately.
2. Terms and conditions in existing franchise permit agreements are not amended with the exception of Section 5, Customer Service; Section 6, Consumer Protection; Section 7, Compensation for Franchise, and Section 8, Intergovernmental Agreements. The effective date of these Ordinance provisions for existing franchise permit agreements is 60 days from the adoption of this Ordinance.

  
Ed Lindquist,  
Chair, Board of County Commissioners

  
Penny Morrison  
Recording Secretary

8/11/94  
Date



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of an  
Ordinance Governing the  
Regulation of Cable Television  
Communications Systems within  
the Unincorporated Areas of  
Clackamas County

Order No. 94- 888

This matter coming on at this time, and it appearing to the Board of County Commissioners that the Cable Television and Consumer Protection Act of 1992 provides that local government shall be the primary means of franchising regulation and enforcement for the Federal standards governing cable television systems, and

It further appearing that Clackamas County currently has no Ordinance or other set of uniform standards establishing its policies concerning cable television franchising regulation, and enforcement, and

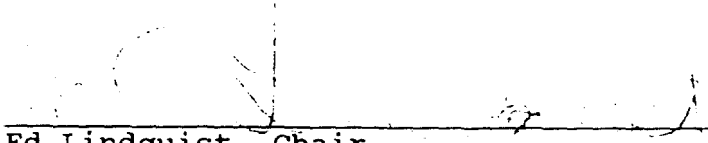
It further appearing that this Ordinance was read by title only at the regular meeting of the Board of County Commissioners on July 28, 1994, and at the meeting on August 11, 1994, and

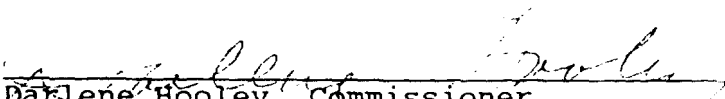
It further appearing that an emergency is presented in that the Ordinance is intended for immediate application,

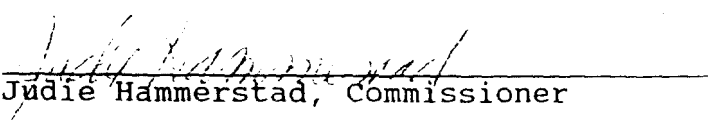
NOW THEREFORE, IT IS HEREBY ORDERED that the aforesaid Ordinance is hereby adopted, an emergency is declared, and said Ordinance shall take effect immediately.

Dated this 11th day of August, 1994

BOARD OF COUNTY COMMISSIONERS

  
Ed Lindquist, Chair

  
Darlene Hooley, Commissioner

  
Judie Hammerstad, Commissioner